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District Counsel

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

In re

TULARE LOCAL HEALTHCARE
DISTRICT, dba TULARE REGIONAL
MEDICAL CENTER,

Debtor.

HEALTHCARE CONGLOMERATE
ASSOCIATES, LLC,

Plaintiff,

v.

TULARE LOCAL HEALTHCARE
DISTRICT, dba TULARE REGIONAL
MEDICAL CENTER; DOES 1 through 20,

Defendants.

CASE NO. 17-13797

Chapter 9

Adv. No.:

**NOTICE OF REMOVAL OF LAWSUIT
PENDING IN STATE COURT TO
BANKRUPTCY COURT (28 U.S.C §
1452)**

1 TO THE CLERK OF THE ABOVE ENTITLED COURT, AND TO ALL PARTIES
2 IN THE CIVIL ACTION IDENTIFIED HEREIN AND HEREBY REMOVED, THE CLERK
3 OF THE SUPERIOR COURT OF CALIFORNIA IN AND FOR THE COUNTY OF LOS
4 ANGELES:

5 PLEASE TAKE NOTICE that Debtor TULARE LOCAL HEALTHCARE
6 DISTRICT, dba TULARE REGIONAL MEDICAL CENTER ("TRMC"), as Defendant in a
7 case brought against it in the Superior Court of California in and for the County of Los
8 Angeles (the "Superior Court"), does hereby remove the action filed in the Superior
9 Court, identified with more particularity below, to the United States Bankruptcy Court for
10 the Eastern District of California, Fresno Division.

11 1. This Notice of Removal ("Notice") is made in accordance with 28 U.S.C. §§
12 1334(b), 1452(a), 157, and BR 9027 and is based on this Notice and the Exhibit(s)
13 attached hereto and on all of the records and documents filed in the above-entitled
14 matter.

15 2. On September 30, 2017, TRMC commenced proceedings in the United
16 States Bankruptcy Court for the Eastern District of California, Fresno Division, pursuant
17 to Chapter 9 of the Bankruptcy Code, as Case No. 17-13797 (the "Bankruptcy Case").

18 3. On September 15, 2017, prior to TRMC's Bankruptcy Case, Plaintiff
19 Healthcare Conglomerate Associates, LLC ("HCCA") initiated a civil lawsuit against
20 TRMC styled *Healthcare Conglomerate Associates, LLC v. Tulare Local Health Care*
21 *District, dba Tulare Regional Medical Center, Case No. BC 676133, Los Angeles*
22 *County Superior Court* (the "Lawsuit").

23 4. By virtue of the Lawsuit, HCCA asserts a substantial breach of contract claim
24 against TRMC. TRMC disputes any and all claims made by HCCA in the Lawsuit and
25 believes it has valid counterclaims against HCCA.

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1 5. 28 U.S.C. § 1452(a) permits removal of any claim or cause of action to the
2 district court for the district where such civil action is pending provided that the such
3 district court has jurisdiction of such claim or cause of action under 28 U.S.C. § 1334.

4 6. Section 1334(b) provides that district courts have jurisdiction of all civil
5 proceedings related to cases under Title 11. TRMC's Bankruptcy Case arises under
6 Title 11 and the Lawsuit is related to the Bankruptcy Case for the reasons described
7 more fully below.

8 7. The test for whether a civil proceeding is related under Section 1334(b) is
9 relatively straight forward. "The usual articulation of the test for determining whether a
10 civil proceeding is related to bankruptcy is whether the outcome of the proceeding could
11 conceivably have any effect on the estate being administered in bankruptcy." In re
12 Fietz, 852 F.2d 455, 457 (9th Cir. 1988), quoting Pacor v. Higgins, 743 F.2d 984 (3d Cir.
13 1984) (overruled on other grounds by Things Remembered, Inc. v. Petracca, 516 U.S.
14 124 (1995)). The Lawsuit meets this test because the claims it encompasses will have
15 a substantial impact on TRMC's ability to fund a Chapter 9 plan of adjustment.

16 8. The Bankruptcy Case and the Lawsuit are related because the claim(s)
17 encompassed by the Lawsuit have a clear and direct impact on the bankruptcy estate
18 and will therefore have a significant effect on the administration of the estate. For
19 example, determination of the Lawsuit necessarily involves the allowance or
20 disallowance of HCCA's substantial and highly disputed claim(s) against TRMC.

21 9. Because the Lawsuit and the Bankruptcy Case are related, pursuant to 28
22 U.S.C. § 1334(b), the United States District Court for the Eastern District of California
23 (the "District Court") has jurisdiction over each and every cause of action asserted in the
24 Lawsuit.

25 10. Further, under 28 U.S.C. § 157 and the general reference of the District
26 Court with respect to bankruptcy matters, the Bankruptcy Court has jurisdiction of the
Lawsuit pursuant to 28 U.S.C. § 1334(b).

1 11. The Lawsuit is not a proceeding before the United States Tax Court or a
2 civil action by a governmental unit to enforce such governmental unit's police or
3 regulatory power.

4 12. Bankruptcy Rule 9027 mandates this Notice be filed with the Bankruptcy
5 Court because it is the Court where the related matter (the Bankruptcy Case) is
6 pending.

7 13. Upon removal, the action encompassed by the Lawsuit is a core
8 proceeding pursuant to 28 U.S.C. § 157(b)(2), and TRMC consents to entry of final
9 orders or judgment by the Bankruptcy Judge.

10 14. Attached as Exhibit "A" to this Notice are copies of all process, pleadings
11 (as narrowly defined by F.R.C.P. Rule 7(a)) and minute entries and orders filed prior to
12 removal.

13 15. Promptly after the filing hereof, TRMC's counsel shall file a Notice of
14 Removal with the Clerk of the Superior Court of the State of California, County of Los
15 Angeles.

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17 Dated: December 28, 2017

WALTER WILHELM LAW GROUP,
a Professional Corporation

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21 Riley C. Walter Attorneys for Debtor
22 Tulare Local Healthcare District, dba
23 Tulare Regional Medical Center
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